IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.1310 of 2006

Date of Decision: 20.2.2007

Dr.Naresh Kumar Aggarwal .....Petitioner

Versus

State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.VK Shukla, Advocate
for the petitioner.

Ms.Neelofar A.Parveen, AAG Punjab for the respondents.

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J.S.KHEHAR, J.(Oral)

The petitioner was appointed as a Medical Officer in the Department of Health and Family Welfare, Punjab on 5.4.1983. In March 2004, the petitioner issued a three months' notice under the Punjab Civil Services (Pre-Mature) Retirement Rules, 1975, claiming pre-mature retirement. The request made by the petitioner to retire pre-maturely was acceded to, inasmuch as, he was allowed to retire with effect from 16.6.2004.

Despite the retirement of the petitioner with effect from 16.6.2004, he was not released his retiral benefits. The petitioner, therefore, made representation to the respondents, and also issued a legal notice. It is,therefore, that the petitioner came to be paid a sum of Rs.6,10,450/- on account of GPF on 13.12.2005, he was also paid a sum of Rs.60,000/- on account of GIS on 25.10.2005, whereas leave encashment in the sum of

Rs.3,49,650/- was released to him on 28.2.2006. Still earned leave due to the petitioner remained unpaid, forcing the petitioner to file the instant writ petition, wherein he claimed earned leave, as well as, interest on delayed payments of retiral benefits. It is also not a matter of dispute that earned leave came to be paid to the petitioner during the pendency of the instant writ petition.

In the facts and circumstances noticed hereinabove, the only issue which now remains to be adjudicated is, whether the petitioner is entitled to interest, and if so, the rate thereof, as also, the date with effect from which interest should start to run.

Learned counsel for the respondents, vehemently opposed the claim of the petitioner for interest, asserting that, the petitioner had not retired on attaining the age of superannuation. In such a case, the service record of an employee is processed one year before the date of superannuation. It is pointed out that the petitioner claimed pre-mature retirement by issuing a notice in March 2004. As against the aforesaid contention, it is submitted, that the request for pre-mature retirement made by the petitioner was accepted w.e.f. 16.6.2004. It is, therefore asserted, that sufficient time was available with the respondents so as to process the claim of the petitioner.

It is also the contention of the learned counsel for the respondents that 'No Due Certificate' was produced by the petitioner only on 3.6.2005, and as such, the petitioner was entitled to claim retiral benefits only after 3.6.2005. We have considered the instant submissions advanced by the learned counsel for the respondents in conjunction with the decision rendered by this Court in Chhatrasal Singh Versus State of Haryana and

others, 1996(5) Services Law Reporter 474, wherein this Court has held, that the procurement of a 'No Due Certificate' is not the responsibility of the retiree, but is the responsibility of the Office, which has to decide whether or not any deduction has to be made from the emoluments payable to a retiree. We agree and concur with the opinion expressed in Chhatrasal Singh's case (supra) in so far as the contention relating to the submissions of the 'No Due Certificate' is concerned. Keeping in mind that the concerned employee's monthly emoluments would no longer be available to him after the effective date of his retirement, the authorities are bound to deal with issues as the one in hand with expedience. In the instant case, the petitioner first submitted a notice seeking voluntary retirement in March 2004. Thereafter, the petitioner was allowed to retire pre-maturely on 16.6.2004. The authorities were conscious of the fact that he had claimed pre-mature retirement, and as such, should have initiated the process of calculating the retiral benefits payable to him. All the same, under no circumstances should an employer take more than six months after the date of retirement, to calculate, and pay, all retiral benefits to an employee. While rejecting the contention of the learned counsel for the respondents, based on the date of submission of the “No Objection Certificate” we hereby hold, that an employer must under all circumstances foreseen as well as unforeseen not take more than six months to finalise claims relating to retiral benefits.

It would be unfair to the learned counsel for the respondents, if we do not take into consideration the contention advanced by him, that the decision rendered by this Court in Chhatrasal Singh's case (supra) would be inapplicable to the controversy involved in this case, on account of the fact

that the petitioner in Chhatrasal Singh's case (supra) had retired from service on attaining the age of superannuation, whereas the petitioner herein had sought voluntary retirement by issuing a notice for three months, and was allowed to retire voluntarily under the provisions of Punjab Civil Services (Pre-Mature) Retirement Rules, 1975 w.e.f. 16.6.2004. We find no merit in the instant contention of the learned counsel for the respondents in view of the observations made by us in this behalf in the foregoing paragraph.

In view of the above, we are of the opinion that the petitioner is definitely entitled to interest on delayed payment of retiral benefits, commencing with effect from six months from the date on which he was allowed to pre-maturely retire, i.e. after 16.6.2004. The respondents shall accordingly calculate interest payable at permissible at saving bank rates applicable at the time of his retirement on 16.6.2004. The aforesaid interest shall commence to run from 16.6.2004 i.e. after the expiry of six months of his retirement. Payment of interest on delayed payment of retiral benefits at the aforesaid rate shall be released to the petitioner within two months from the date of submission of a certified copy of this order.

Allowed in the aforesaid terms.

(J. S. KHEHAR)
JUDGE

(S. D. ANAND)
JUDGE

February 20, 2007
SRM